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**U.S. District Court
Northern District of Ohio (Cleveland)
CIVIL DOCKET FOR CASE #: 1:08-cv-00232-JG
Internal Use Only**

Monode Marking Products, Inc. v. Freedom Technologies Corporation

Assigned to: Judge James S. Gwin
Cause: 35:271 Patent Infringement

Date Filed: 01/28/2008
Date Terminated: 08/22/2008
Jury Demand: Both
Nature of Suit: 830 Patent
Jurisdiction: Federal Question

Plaintiff

Monode Marking Products, Inc.

Pat. # 6,974,082

represented by **David T. Movius**
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G. Enter judgment that this case is exceptional and award Monode its attorneys' fees in this action pursuant to 35 U.S.C. § 285; and

H. Award Monode such other and further relief as the Court may deem just and equitable.

JURY DEMAND

Monode hereby requests trial by jury of all issues so triable.

Respectfully submitted,

Dated: January 28, 2008

/s/ Ryan M. Fitzgerald
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Monode Marking Products, Inc.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

MONODE MARKING PRODUCTS,)	CASE NO. 1:08CV00232
INC.,)	
)	JUDGE JAMES S. GWIN
Plaintiff,)	
)	
vs.)	ORDER
)	
FREEDOM TECHNOLOGIES CORP.,)	
)	
Defendant.)	

Upon representation of counsel that the above-captioned case has been settled between the parties, IT IS ORDERED that the docket be marked, "settled and dismissed with prejudice."

Any subsequent order setting forth different terms and conditions relative to the settlement and dismissal of the within action shall supersede the within order.

FURTHER, the Court retains continuing jurisdiction to resolve disputes concerning the memorialization of this settlement agreement. *See Kokkonen v. Guardian Life Ins. Co.*, 511 U.S. 375 (1994).

Dated: August 21, 2008

S/ James S. Gwin
JUDGE JAMES S. GWIN
UNITED STATES DISTRICT JUDGE

V.

Defendant

Freedom Technologies Corporation

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Counter-Claimant

Freedom Technologies Corporation

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Joseph P. Carrier
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Steven M. Auvil
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V.

Counter-Defendant**Monode Marking Products, Inc.**represented by **David T. Movius**

(See above for address)

ATTORNEY TO BE NOTICED**Robert H. Earp, III**

(See above for address)

ATTORNEY TO BE NOTICED**Ryan M. Fitzgerald**

(See above for address)

ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
01/28/2008	<u>1</u>	Complaint with jury demand against Freedom Technologies Corporation. Filing fee \$ 350, receipt number 0647000000002834324. Filed by Monode Marking Products, Inc. (Attachments: # <u>1</u> Exhibit A - United States Patent No. 6,974,082, # <u>2</u> Civil Cover Sheet) (Fitzgerald, Ryan) (Entered: 01/28/2008)
01/28/2008	<u>2</u>	Corporate Disclosure Statement by Monode Marking Products, Inc. filed by Monode Marking Products, Inc.. (Fitzgerald, Ryan) (Entered: 01/28/2008)
01/29/2008		(Court only) Utility Event adding attorney Robert H. Earp, III for Monode Marking Products, Inc., David T. Movius for Monode Marking Products, Inc. (Ja,N) (Entered: 01/29/2008)
01/29/2008		Judge James S. Gwin assigned to case. (Ja,N) (Entered: 01/29/2008)
01/29/2008		Random Assignment of Magistrate Judge pursuant to Local Rule 3.1. In the event of a referral, case will be assigned to Magistrate Judge Perelman. (Ja,N) (Entered: 01/29/2008)
01/29/2008	<u>3</u>	Magistrate Consent Form issued to counsel. No summons provided; no summons issued. (Ja,N) (Entered: 01/29/2008)
05/23/2008	<u>4</u>	Praecipe for issuance of summons for Defendant filed by Monode Marking Products, Inc.. (Attachments: # <u>1</u> summons for Freedom Technologies Corporation)(C,B) (Entered: 05/27/2008)
05/23/2008		Summons issued for service upon Freedom Technologies Corporation. (C,B) (Entered: 05/27/2008)
05/23/2008	<u>5</u>	Notice of failure to file electronically, pursuant to Local Rule 5.1(c). Non-compliant document: <u>4</u> Praecipe filed by Monode Marking Products, Inc. Related document(s) <u>4</u> . (C,B) (Entered: 05/27/2008)
05/29/2008	<u>6</u>	Order to Show Cause signed by Judge James S. Gwin on 5/29/08. (Related Doc. <u>1</u>) (M,G) (Entered: 05/29/2008)

06/05/2008	<u>7</u>	Return of Service Executed upon Freedom Technologies Corporation by Personal service on May 27, 2008 filed on behalf of Monode Marking Products, Inc. (Fitzgerald, Ryan) (Entered: 06/05/2008)
06/05/2008	<u>8</u>	Return of Service Executed upon Freedom Technologies Corporation by Personal Service on May 27, 2008 filed on behalf of Monode Marking Products, Inc. (Fitzgerald, Ryan) (Entered: 06/05/2008)
06/05/2008	<u>9</u>	Response to <i>Order to Show Cause</i> filed by Monode Marking Products, Inc.. Related document(s) <u>6</u> . (Fitzgerald, Ryan) (Entered: 06/05/2008)
06/16/2008	<u>10</u>	Stipulated Motion for extension of time until June 30, 2008 to answer or otherwise plead filed by all parties. (Auvil, Steven) Modified filers on 6/17/2008 (S,HR). (Entered: 06/16/2008)
06/18/2008	<u>11</u>	Marginal Entry Order signed by Judge James S. Gwin on 6/18/08 granting defendant's motion for an extension of time until 6/30/08 to file an answer to the complaint. (Related Doc. <u>10</u>) (M,G) (Entered: 06/18/2008)
06/18/2008	<u>12</u>	Attorney Appearance by Bryan J. Jaketic filed by on behalf of Freedom Technologies Corporation. (Jaketic, Bryan) (Entered: 06/18/2008)
06/19/2008		Notice by Clerk that Freedom Technologies Corporation failed to file a corporate disclosure statement as required by Local Rule 3.13(b). (S,HR) (Entered: 06/19/2008)
06/19/2008	<u>13</u>	Corporate Disclosure Statement by Freedom Technologies Corporation filed by Freedom Technologies Corporation. (Jaketic, Bryan) (Entered: 06/19/2008)
06/23/2008	<u>14</u>	Motion for attorney Joseph P. Carrier to Appear Pro Hac Vice. Filing fee \$ 100, receipt number 0647000000003075342, filed by Defendant Freedom Technologies Corporation. (Attachments: # <u>1</u> Affidavit of Joseph P. Carrier) (Jaketic, Bryan) (Entered: 06/23/2008)
06/24/2008	<u>15</u>	Marginal Entry Order signed by Judge James S. Gwin on 6/24/08 granting the motion for admission pro hac vice of Attorney Joseph P. Carrier on behalf of defendant. (Related Doc. <u>14</u>) (M,G) (Entered: 06/24/2008)
06/30/2008	<u>16</u>	Answer to <u>1</u> Complaint, with Jury Demand, Counterclaim against Monode Marking Products, Inc. filed by Freedom Technologies Corporation. (Auvil, Steven) (Entered: 06/30/2008)
07/21/2008	<u>17</u>	Notice of Magistrate Consent form issued 7/21/08 by Judge James S. Gwin. (M,G) (Entered: 07/21/2008)
07/21/2008	<u>18</u>	Case Management Conference Scheduling Order signed by Judge James S. Gwin on 7/21/08 setting a conference for 8/21/08 at 8:30 a.m., Chambers 18A (Cleveland). (Attachments: # <u>1</u> Local Rule 30.1) (M,G) (Entered: 07/21/2008)
07/21/2008	<u>19</u>	Answer/Reply to Counterclaim filed by Monode Marking Products, Inc. Related document(s) <u>16</u> . (Fitzgerald, Ryan) Modified text on 7/21/2008 (S,HR). (Entered: 07/21/2008)

08/14/2008	<u>20</u>	Report of Parties' Planning Meeting. Parties do not consent to this case being assigned to the magistrate judge, filed by Monode Marking Products, Inc. and Freedom Technologies Corporation. (Fitzgerald, Ryan) Modified filers on 8/15/2008 (M,TL). (Entered: 08/14/2008)
08/20/2008	<u>21</u>	Preliminary Estimate of Fees and Expenses filed by Monode Marking Products, Inc. (Movius, David) (Entered: 08/20/2008)
08/21/2008	<u>22</u>	Preliminary Estimate of Fees and Expenses filed by Freedom Technologies Corporation. (Auvil, Steven) (Entered: 08/21/2008)
08/21/2008	<u>23</u>	Minutes of case management conference before Judge James S. Gwin on 08/21/08. (Court Reporter None.) (S,HR) (Entered: 08/21/2008)
08/21/2008	<u>24</u>	Order signed by Judge James S. Gwin on 08/21/08 that, upon representation of the parties that all issues have been resolved, the docket is marked settled and dismissed with prejudice. (S,HR) (Entered: 08/22/2008)

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

MONODE MARKING PRODUCTS, INC.,)
) CIVIL CASE NO. _____
)
Plaintiff,) JUDGE:
)
vs.) **Jury Demand**
)
FREEDOM TECHNOLOGIES CORPORATION,)
)
)
Defendant.)
)

COMPLAINT

Plaintiff Monode Marking Products, Inc. ("Monode"), for its Complaint against Defendant Freedom Technologies Corporation ("Freedom Technologies"), alleges and states as follows:

I. INTRODUCTION

1. This is an action for damages to remedy the infringement by Freedom Technologies of United States Patent No. 6,974,082 (the "082 patent") in violation of the rights of Monode.

II. THE PARTIES

2. Monode is an Ohio corporation with its principal place of business at 7620 Tyler Boulevard, Mentor, Ohio 44060.

3. Monode designs, manufactures and sells products and services relating to marking equipment and integrated marking solutions.

4. Upon information and belief, Freedom Technologies is a Michigan corporation with its principal place of business at 10370 Citation Drive, Suite 200, Brighton, Michigan 48116.

5. Freedom Technologies manufactures, offers for sale and sells software applications including the product marketed as Error Proof®. Error Proof® is marketed as having label printing and production information capture functions.

III. JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction over this patent infringement action pursuant to 35 U.S.C. §§ 271 and 281, and 28 U.S.C. §§ 1331 and 1338(a).

7. This Court has personal jurisdiction over Freedom Technologies because, upon information and belief, it regularly sells, advertises, and distributes products in this judicial district that infringe claims 1 through 23 of the '082 patent, regularly solicits business in Ohio and in this judicial district, regularly engages in a persistent course of conduct by conducting business in Ohio and in this judicial district, and regularly derives revenue from goods sold and used in Ohio and in this judicial district.

8. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b) because, upon information and belief, the events giving rise to Monode's claims of patent infringement against Freedom Technologies occurred in this district. Venue is also proper in this judicial district pursuant to 28 U.S.C. § 1391(c) because this Court has personal jurisdiction over Freedom Technologies. Venue also is proper pursuant to 28 U.S.C. § 1400(b) because, upon information and belief, Freedom Technologies has committed, and continues to commit, acts of infringement in this judicial district.

IV. FACTUAL BACKGROUND

9. On December 13, 2005, the '082 patent, entitled "Hardware Integration System," was duly and legally issued to Jonathan T. Mackey ("Mr. Mackey"). A true and accurate copy of the '082 patent is attached as Exhibit A.

10. On December 1, 2003, Mr. Mackey assigned the '082 patent to Monode. At all times since December 1, 2003, Monode has been, and continues to be, the sole owner of all right, title and interest in and to the '082 patent, including the exclusive right to recover for infringement of the '082 patent.

11. Monode manufactures and sells the Triad Software System.

12. Monode marks the Triad Software System with the '082 patent.

13. Freedom Technologies has manufactured, offered for sale, sold, used, or imported, and continues to manufacture, offer for sale, sell, use or import, software and hardware such as the Error Proof® software application that is capable of infringing claims 1 through 23 of the '082 patent.

14. Freedom Technologies' manufacture, offer for sale, sale, use and importation of the Error Proof® software application has been without the permission or consent of Monode.

15. Monode has not licensed or otherwise granted Freedom Technologies any rights under the '082 patent.

V. COUNT 1 – PATENT INFRINGEMENT

16. Monode incorporates by reference the preceding paragraphs as if fully alleged herein.

17. Freedom Technologies has been and is now directly infringing, contributorily infringing, and/or inducing infringement of claims 1 through 23 of the '082 patent by making,

using, importing, offering for sale, or selling the Error Proof® software application that is capable of practicing claims 1 through 23 of the '082 patent within this judicial district and elsewhere in the United States.

18. Freedom Technologies has knowingly infringed the '082 patent and Freedom Technologies' direct, contributory, and/or inducement of infringement has been and is willful and deliberate.

19. Freedom Technologies has profited and will continue to profit by its infringing activities.

20. Monode has been damaged by Freedom Technologies' infringing activities.

WHEREFORE, Monode prays that this Court:

A. Enter judgment that Freedom Technologies has directly infringed claims 1 through 23 of United States Patent No. 6,974,082;

B. Enter judgment that Freedom Technologies has contributorily infringed claims 1 through 23 of United States Patent No. 6,974,082;

C. Enter judgment that Freedom Technologies has induced infringement of claims 1 through 23 of United States Patent No. 6,974,082;

D. Award Monode all of its damages caused by Freedom Technologies' acts of infringement of United States Patent No. 6,974,082 together with interest and costs as provided for under 35 U.S.C. § 284;

E. Order an accounting of Freedom Technologies' profits arising out of its infringing activities and award Monode those profits;

F. Enter judgment that Freedom Technologies' infringement is willful and increase the damages to three (3) times the amount found or assessed pursuant to 35 U.S.C. § 284;